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IN THE HON'BLE HIGH COURT OF JUDICATURE OF CHHATISGARH

AT BILASPUR

WRIT PETITION NO. 1636 /2001

IN RE :

R K Jain ... Petitioner

VERSUS

State of Chhatisgarh & Ors. ...Respondents
(Bhilai Raipur Transport Co.)

To

P. R. No. 12/1/07
Presented by Shri V.K. Sharma
dated 30.8.07

YOUR LORDSHIPS,

The petitioner named above most respectfully submits as under :

i) PARTICULARS OF THE PETITIONER

Sh. R K Jain
S/o Sh. R C Jain,
7A, Rajpur Road,
Delhi-110 054

ii) PARTICULARS OF THE RESPONDENTS

1. State of Chhatisgarh, Raipur
2. State of Madhya Pradesh Service to be effected through, DIG CBI M.P., Jabalpur.

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Seal of Oath Commissioner New Delhi Ms. Rita Sharma

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3. Punjab & Sind Bank,
Through its Branch
Manager,
K.K. Road,
Raipur

4. Kashinath
S/o Baburao aged about
48 yrs, Dangania, Rajkumar
College Ward, Raipur
(Partner of - M/s Bhilai
Raipur Transport Company,
Raipur

5. Bhupatlal Parekh S/o,
Popat Lal Parekh, aged
about 49 yrs, Sadar
Bazar, Raipur (Partner
of M/s.Bhilai Raipur
Transport Co.), Raipur,

6. Subhash Chand Jain
s/o late Sh. P S Jain
(Partner of M/s Bhilai
Motors)
R/o 4-A, Astop Course,
3-Landan Street,
Calcutta

7. R C Jain
s/o late Shri P S Jain,
(Director of M/s P S Jain
Motors (P) Ltd.
R/o 7-A, Rajpur Road,
Delhi

iii) **PARTICULARS OF THE ORDERS AGAINST WHICH THE PETITION IS DIRECTED**

i) Summoning orders made by the court of ACJM Raipur in Criminal Complaint case No.796/97 stated as Punjab & Sind Bank Vs. Kashinath & Ors. being orders dt. 25.11.93 **(ANNEX.P-4)**.

ii) Order dated 2.8.2001 passed by the court of Sh. Sanjay Jaiswal, ACJM Raipur directing issuance of Non-bailable warrants against the petitioner.
(Annexure P-5)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Writ Petition No. 1636/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

क्रमांक का आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20/9/2001

Shri J.C. Gupta, learned counsel for the petitioner.

Shri Gautam Bhadhuri, learned G.A. for the State.

Heard.

O R D E R

Though various issues have been raised and also various reliefs have been claimed, Shri Gupta, learned counsel for the petitioner submits that if the relief of directing the writ petitioner to appear before the Court on the next date fixed by the trial Court is granted and if in the meantime the warrant of arrest is recalled, other issues need not be pressed.

The writ petitioner is directed against the orders dated 25/11/1993 being the summoning orders made by the learned Additional Chief Judicial Magistrate, Raipur, in the matter of Criminal complaint preferred by the Punjab & Sind Bank against the petitioner and others under Sections 418, 420, 405, 403, 465, 468, 471, 198, 196, 192 read with Sections 34 and 120-B of the IPC in 1985.

It appears that no progress has been made in the case. It is submitted by Shri Gupta, learned counsel for the petitioner that all these years the writ petitioner has not

[पीछे देखिये

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

been served with summons. I would not express any opinion so far as this submission is concerned, inasmuch as this fact can only be borne out by the record of the trial Court. It is submitted by Shri Gupta, learned counsel for the petitioner that after 8 years non-[redacted] warrant has been issued on 2/8/2001 and 27/12/2001 has be[redacted] fixed. Learned counsel for the petitioner submits that the petitioner is ready to appear before the trial Court and face the trial. However, he has apprehension and unless some protection is given, he is likely to be taken into custody and if this is allowed, great damage to the name of the writ petitioner would be done. It is, further, stated by Shri Gupta that the petitioner is a businessman and there is no question of his absconding or his escaping from the hands of justice and he is willing and ready to face the trial.

Shri Gautam Bhadhuri, learned G.A. for the State submits that in the facts and circumstances of such case where a regular complaintcase has already been registered, there is no scope for this Court to interfere with the process of the proceedings of the Court below in exercise of power under Article 226/227 of the Constitution of India, inasmuch as if aggrieved by the proceedings that have been initiated against the writ petitioner, he ought to have sought remedy by filing petition under Section

GRPRJ—FS/311—1/2001—50,000.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मार्मला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

482 Cr.P.C. It is, therefore, submitted that this Court, at this stage, should not pass any order giving him protection inasmuch as the writ petitioner is not entitled to any protection in the present case. Shri Gautam Bhadhuri, learned G.A. for the State is of the opinion that delay in the proceedings could have been attributed to the non-cooperation of the writ petitioner.

Be that as it may, in my view since the writ petitioner is now ready to face the trial before the Court below, this Court in the interest of justice can direct him to do so and face the trial. In the result, I direct the writ petitioner that he should appear before the trial Court on the fixed date positively and face the trial by extending co-operation expected of him as an accused in the proceeding. If the trial Court finds during the proceedings that the petitioner tries to avoid the proceedings, the trial Court is absolutely at liberty to take such steps as are authorised under the Law.

In this view of the above direction, the non-bailable warrant of arrest issued on 2/8/2001 shall stand recalled. It is open to the writ petitioner to pray for regular bail before the trial Court. With the above observations and directions, the petition is disposed of.

Sd/- W.A.SHISHAK
CHIEF JUSTICE

CHIEF JUSTICE

rsnr* HIGH COURT OF CHHATTISGARH AT BILASPUR

End. No. 12332 to 12334 Date 2-11-01

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(1) to (3) (1) Stat C.G. Raipur
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(3) Punjab & Sind Bank, Raipur

6/11/01

O/C